REMARKS

Claims 48-71 are pending and presently under consideration. Claims 48 and 69 (and claims dependent thereon) have been amended, as suggested by the Examiner, to specify that the target sequences detected or amplified as part of the claimed methods are nucleic acid target sequences. Claims 61 and 70 have been amended to correct a typographical error. Applicants' correction of the typographical error in claims 61 and 70 does not narrow the scope of these claims.

Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the prior Office Action.

Priority

1. Applicants thank the Examiner for pointing out the need to update Applicants' priority information to reflect the issuance of United States Patent No. 6,858,412. Applicants have amended the specification accordingly.

Information Disclosure Statement

2. Applicants acknowledge the Examiner's comments regarding the citing of references in an Information Disclosure Statement.

Applicants note that a Supplemental Information Disclosure Statement is enclosed herewith.

Specification

3. The title was objected to for allegedly failing to be descriptive. Applicants' amendment to the title is believed to obviate this objection to the specification.

4. The abstract was objected to for allegedly including subject matter other than that which is currently claimed. Applicants traverse this objection. MPEP 608.01(b) (cited by the Examiner) does not require that the abstract pertain only to the claimed invention. Rather, the abstract should provide a brief "technical disclosure." MPEP 608.01(b). Applicants submit that

the present abstract satisfies the guidelines provided in the MPEP, and that no further amendment is required. Reconsideration and withdrawal of this objection is requested.

35 U.S.C. § 112, second paragraph

5. Claims 48-71 are rejected under 35 U.S.C. 112, second paragraph, as indefinite for allegedly failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. Applicants traverse this rejection and contend that the rejection is moot in view of the amended claims.

Applicants contend that, in the context of the present claims, one of skill in the art could readily ascertain the metes and bounds of the term "target." Specifically, and as pointed out by the Examiner, the context of the claims and the application clearly indicates that the target sequences are nucleic acids. Nevertheless, to expedite prosecution and as suggested by the Examiner, Applicants have amended claims 48 and 69 (and claims dependent thereon) to more particularly point out that the one or more target sequences amplified or detected by the methods of the present invention are "one or more nucleic acid target sequences." Applicants' amendments are not in acquiescence to the rejection. Applicants reserve the right to prosecute claims of similar or differing scope. Applicants' amendments are believed to obviate the rejection, and reconsideration and withdrawal of the rejection are requested.

Double Patenting

6. Claims 48-54, 56, 57, 60-62, and 64-71 are rejected on the ground of obviousness-type double patenting as allegedly unpatentable over claims 1-47 of U.S. Patent No. 6,858,412. Applicants note that the instant application is a continuation of and claims priority to U.S. Patent No. 6,858,412. Applicants will submit a terminal disclaimer, if necessary, upon indication of allowable subject matter.

7. Claims 55, 63, 58, and 59 are rejected on the ground of obviousness-type double patenting as allegedly unpatentable over claims 1-47 of U.S. Patent No. 6,858,412 in view of Speel (Speel, 1999, *Histochem Cell Biol* 112: 89-113). Applicants will submit a terminal disclaimer, if necessary, upon indication of allowable subject matter.

8. Claims 48-71 are provisionally rejected on the ground of obviousness-type double patenting as allegedly unpatentable over claims 1-7 and 16 of copending Application Serial No. 11/152,460 in view of Speel. Applicants request that the Examiner hold this provisional rejection in abeyance until allowable subject matter is identified in the instant application. Applicants additionally note that "[t]he 'provisional' double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that 'provisional' double patenting rejection is the only rejection remaining in one of the applications. If the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the 'provisional' double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent." MPEP 804.

9. Claims 48-71 are provisionally rejected on the ground of obviousness-type double patenting as allegedly unpatentable over claims 48-72 of copending Application No. 11/335,196 in view of Steel. Applicants request that the Examiner hold this provisional rejection in abeyance until allowable subject matter is identified in the instant application. Applicants additionally note that "[t]he 'provisional' double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that 'provisional' double patenting rejection is the only rejection remaining in one of the applications. If the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the 'provisional' double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent." MPEP 804.

10. Claims 48-71 are provisionally rejected on the ground of obviousness-type double patenting as allegedly unpatentable over claims 48-72 of copending Application No. 11/375,818 in view of Steel. Applicants request that the Examiner hold this provisional rejection in abeyance until allowable subject matter is identified in the instant application. Applicants additionally note that "[t]he 'provisional' double patenting rejection should continue to be made

by the examiner in each application as long as there are conflicting claims in more than one application unless that 'provisional' double patenting rejection is the only rejection remaining in one of the applications. If the 'provisional' double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the 'provisional' double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent." MPEP 804.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Applicants believe that no fees are due with reply. Should any extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945, under Order No. AFMX-P02-201.**

Respectfully Submitted,

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